***THE HON'BLE SRI JUSTICE N.V. RAMANA**

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+WRIT PETITION NO.6689 OF 2001

%Dated 16.03.2006

M. Bhoopal Reddy, S/o Bakka Reddy, Ex-Driver, E.No.251538, R/o Plot No.51, Dwarakamai Colony, Vanasthalipuram, R.R. District.

..... PETITIONER

VERSUS

$ 1 The Labour Court-I, 1st Floor, Chandravihar Building, Nampally, Hyderabad, rep. By its Presiding Officer and another.

.....RESPONDENTS

! Counsel for Petitioner: Sri V. Narsimha Goud

^ Counsel for Respondent No.1: GP for Labour.

Counsel for Respondent No.2: Sri V.T.M. Prasad, Standing Counsel for APSRTC.

< GIST:

> HEAD NOTE:

? Cases referred:

1. 2000 Lab.I.C. 221
2. 1984 (2) APLJ 98
3. 2001(4) ALD 535 (DB)
4. 2005 (4) ALT 794
5. (2005) 7 SCC 764

THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 6689 of 2001

O r d e r:

Assailing the award dated 26.11.1999, passed by the Labour Court, Hyderabad, in I.D. No. 130 of 1997, published on 23.02.2000 vide G.O. Rt. No. 349, Labour Employment Training & Factories (Lab.I) Department, dated 14.02.2000, the petitioner filed the present writ petition.

The petitioner joined the service of respondent No.2-APSRTC as Driver on 17.03.1988 and continued as such till 16.01.1997 when he was removed from service. Assailing the order of removal, the petitioner raised an industrial dispute in I.D. No. 130 of 1997 and the Labour Court vide award dated 14.09.1998 allowed the I.D. Assailing the award, respondent No.2 filed writ petition in W.P.
No. 36434 of 1998, and this Court by order dated 23.02.1998, set aside the award and allowed the writ petition. Thereafter, the Labour Court having considered the matter, passed award confirming the order of removal, which is impugned in this writ petition.

The learned counsel for the petitioner submits that no opportunity whatsoever was given by the disciplinary authority before holding that the petitioner obtained employment based on a fake driving licence, but the Labour Court committed a grave error in holding that the disciplinary authority has issued ample opportunity to the petitioner, inasmuch as respondent No.2 did not return the driving licence produced by him to prove its genuineness, and this vitiated the disciplinary proceedings. In support of his submission that non-observance of principles of natural justice vitiated the departmental proceedings, he placed reliance on the judgment of the apex Court in **Hardwari Lal v. State of U.P.**.

He submitted that in the criminal case initiated against the petitioner for the very same charge, he was acquitted by the criminal court, holding that the licence

produced by him is genuine. Inasmuch as after passing of award by the Labour Court, the criminal court had acquitted him of the charge, and having regard to the fact that the charge on which the petitioner was removed from service, is the very same charge on which the petitioner was acquitted by the criminal court, the matter be remitted to the Labour Court, to enable the petitioner to adduce evidence as to his acquittal and to enable the Labour Court exercise its discretion under Section 11-A of the Industrial Disputes Act, 1947 to consider whether the punishment of removal imposed by the disciplinary authority is proportionate to the charges leveled or not. In support of this argument, he placed reliance on the judgments of this Court in **C.V. Ramulu v. Labour Court**, **S.K. Ramju v. Regional Manager, APSRTC, Nalgonda** and **Hindustan Cables Ltd. V. Additional Industrial Tribunal-cum-Labour Court**.

Respondent No.2-APSRTC filed counter. The learned Standing Counsel denied the contention of the petitioner that no opportunity was given to the petitioner in the disciplinary proceedings to putforth his case. The fake driving licence produced by the petitioner, was not returned to him, as it was a piece of evidence to prove the guilt. He submitted that the criminal court did not held that the driving licence produced by the petitioner is genuine, but merely acquitted him on the ground that the prosecution failed to prove the guilt of the petitioner.

He submitted that the Labour Court upon examining various aspects of the matter and considering the letter of the RTO, Nanded, which reported that the driving licence produced by the petitioner was not issued by them, upheld the findings arrived at and punishment imposed by the disciplinary authority, and it cannot be said that the Labour Court has failed to exercise its discretion. He submitted that the object of the disciplinary proceedings and criminal proceedings are distinct and different, and as such, mere acquittal of the petitioner in the criminal case, does not entitle him to be reinstated into service.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of certiorari are limited to – firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess of fails to exercise it, secondly to correct errors of law apparent on the face of the record, and thirdly to correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. The law is also well settled that this Court does not act as an appellate authority and reappraise the evidence while exercising certiorari jurisdiction. It is within these parameters, the impugned award of the Labour Court, has to be examined.

Heard the learned counsel for the petitioner and the learned Standing Counsel for respondent No.2-APSRTC.

The contention of the petitioner that no opportunity whatsoever was given to him in the disciplinary proceedings, and as such, the disciplinary proceedings, stood vitiated, cannot be accepted for the reason that the Labour Court upon appreciation of evidence found that though sufficient opportunity was given to the petitioner in the departmental enquiry to prove the genuineness of the driving licence produced by him, he failed to file any documents and failed to prove that the driving licence

produced by him, in fact, was issued by the RTA, Nanded, and it is genuine and not fake, and while on the other hand, the letter of the RTA, Nanded, reported that the driving licence produced by the petitioner was not issued by them. The petitioner having failed to avail the opportunity provided to him to prove the genuineness of the driving licence, cannot contend that as no opportunity was given to him during the enquiry, the disciplinary proceedings, are vitiated. In that view of the matter, reliance placed by the learned counsel for the petitioner on the judgment of the apex Court in **Hardwari Lal v. State of U.P.,** is of no avail to him.

It is the contention of the petitioner that since he has been acquitted by the criminal court of the charge on which the disciplinary authority had removed him from service, the matter should be remitted to the Labour Court to consider the proportionality of the punishment. I am unable to accept this contention of the petitioner for the reason that mere acquittal of the petitioner in the criminal case by the criminal court, though on the same charge on which he was removed from service, does not entitle him to be reinstated into service, or for that matter, the matter cannot be remanded to the Labour Court, to consider the proportionality of the punishment, inasmuch as the purpose and object of the criminal proceedings and departmental proceedings are entirely different and distinct. This aspect of the matter was considered by the apex Court in **Ajit Kumar Nag v. G.M. (PJ), Indian Oil Corpn. Ltd.**, wherein it was held:

> As far as acquittal of the appellant by a criminal court is concerned, in our opinion, the said order does not preclude the corporation from taking an action if it is otherwise permissible. In our judgment, the law is fairly well settled. Acquittal by a criminal court would not debar an employer from exercising power in accordance with the Rules and Regulations in force. The two proceedings, criminal and departmental, are entirely different. They operate in different fields and having different objectives. Whereas the object of criminal trial is to inflict appropriate punishment on the offender, the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance with the service rules. In a criminal trial, incriminating statement made by the accused in certain circumstances or before certain officers is totally inadmissible in evidence. Such strict rules of evidence and procedure would not apply to departmental proceedings. The degree of proof which is necessary to order a conviction is different from the degree of proof necessary to record the commission of delinquency. The rule relating to appreciation of evidence in the two proceedings is also not similar. In criminal law, burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of the accused 'beyond reasonable doubt', he cannot be convicted by a court of law. In a departmental enquiry, on the other hand, penalty can be imposed on the delinquent officer on a finding recorded on the basis of 'preponderance of probability'. Acquittal of the appellant by a Judicial Magistrate, therefore, does not ipos facto absolve him from the liability under the disciplinary proceedings of the Corporation. We are, therefore, unable to uphold the contention of the appellant that since he was acquitted by a criminal court, the impugned order dismissing him from service deserves to be quashed and set aside.

Therefore, mere acquittal of the petitioner in the criminal case by the criminal court, though on the same charge on which, he was removed from service, does not entitle him to seek reinstatement or for that matter, there is no necessity to remit the matter to the Labour Court for considering the question of proportionality of punishment, and more so when the charge leveled against the petitioner, was found proved in the departmental enquiry, which upon appreciation of the evidence, was upheld by the Labour Court, and having regard to the fact that production of fake driving licence or certificates for the purpose of obtaining employment, is a serious misconduct, no exception can be taken to the order of removal passed by the

disciplinary authority, as confirmed by the Labour Court, and more so when it is the contention of respondent No.2 that it was stated in the appointment order that in case the certificates/driving licence are found not genuine, the services will be liable for disengagement. In that view of the matter, reliance placed by the learned counsel for the petitioner on the judgments of this Court in **C.V. Ramulu v. Labour Court**, **S.K. Ramju v. Regional Manager, APSRTC, Nalgonda** and **Hindustan Cables Ltd. V. Additional Industrial Tribunal-cum-Labour Court,** do not come to his rescue.

For the foregoing reasons, there is no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 16th March, 2006.

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